STATE OF MICHIGAN

COURT OF APPEALS

LAWRENCE WOOD,

Plaintiff-Appellant,

v

UNISON CORPORATION and GREGORY LIPKA,

Defendants-Appellees.

UNPUBLISHED
December 19, 1997

No. 199931
Oakland Circuit Court
LC No. 96-522827-NZ

Before: McDonald, P.J., Saad and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

I

Plaintiff claims that the trial court erred in granting summary disposition because sufficient evidence was presented to support his claim that he was terminated on February 13, 1995, in violation of his just-cause employment contract. We disagree.

Contracts for permanent employment are for an indefinite period and are presumptively construed to provide employment at will. This presumption, however, may be overcome by proof of an express contract for a definite term or a provision forbidding discharge in the absence of just cause, or it may be overcome by proofs that permit a promise implied in fact of employment security. *Rice v ISI Mfg, Inc*, 207 Mich App 634, 636; 525 NW2d 533 (1994). Here, defendant Unison does not deny that plaintiff was employed pursuant to a just-cause contract. Rather, defendants argue that since plaintiff voluntarily quit, they did not have to show just cause for terminating plaintiff.

The only evidence plaintiff produced to support his claim that he was terminated on February 13, 1995, was his own subjective belief. Based on the other evidence produced (including Unison's policy of sending employees home for a cooling off period when necessary, testimony of other employees who heard the confrontation that they did not believe plaintiff had been terminated, and the

telephone conversation between plaintiff and plaintiff's friend where he advised plaintiff that he had not been terminated), we conclude that even giving the benefit of any reasonable doubt to plaintiff, reasonable minds would agree that plaintiff voluntarily quit when he failed to return to work after February 13, 1995. The trial court properly granted summary disposition on plaintiff's wrongful termination claim.

II

Next, plaintiff argues that the trial court erred in dismissing his handicap discrimination claim. MCL 37.1210(18), (19); MSA 3.550(210)(18),(19) states the following:

> (18) A handicapper may allege a violation against a person regarding a failure to accommodate under this article only if the handicapper notifies the person in writing of the need for accommodation within 182 days after the date the handicapper knew or reasonably should have known that an accommodation was needed.
>
> (19) A person shall post notices or use other appropriate means to provide all employees and job applicants with notice of the requirements of subsection (18).

It is undisputed that plaintiff did not give defendants written notice requesting an accommodation for his alleged handicaps. It is also undisputed that Unison posted a notice advising employees of the requirements found in MCL 37.1210(18); MSA 3.550(210)(18). Although plaintiff failed to present evidence that he never saw or had an opportunity to see the posted notice, he argues that the notice was inadequate and that he should have been verbally advised that he needed to put his request in writing. He argues that Unison's posting of the notice in the lunch room on a board with other notices, does not does not meet the requirements found in MCL 37.1210(19); MSA 3.550(210)(19) and thus he is not required to meet the requirements of MCL 37.1210(18); MSA 3.550(210)(18). We disagree. Posting a notice of the requirement of MCL 37.1210(18); MSA 3.550(210)(18), fully meets the requirements found in MCL 37.1210(19); MSA 3.550(210)(19). The Legislature did not place in the statute a requirement for verbal notification of every person who alleged he was handicapped and we refuse to find that requirement. Plaintiff failed to meet the requirements of MCL 37.1210(18); MSA 3.550(210)(18), and thus his handicap discrimination claim was properly dismissed.

III

Finally, plaintiff contends that the trial court erred in dismissing his defamation claim. In order to establish a defamation claim, plaintiff must show: (1) a false and defamatory statement concerning the plaintiff, (2) an unprivileged communication to a third party, (3) fault amounting to at least negligence on the part of the publisher, and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by publication. *Northland Skating v Free Press*, 213 Mich App 317, 323; 539 NW2d 774 (1995).

In his complaint, plaintiff alleged two instances of defamation by defendants: accusation of stealing parts and failing to complete his duties. However, plaintiff did not include in his pleadings

information regarding publication of the defamation. The pleading for both of these claims is deficient because it failed to name the specific parties to whom the statements were made. Therefore, these claims must fail. Moreover, even if plaintiff were allowed to amend his complaint, plaintiff testified that he was unaware of who heard Lipka accuse him of stealing parts. Therefore, without information regarding to whom the allegedly defamatory statements were published, plaintiff's claim would fail. In addition, the lower court record does not include evidence (only unsupported statements of counsel) regarding the defamatory statements allegedly made by Lipka to others accusing plaintiff of failing to complete his duties. Because this Court's review is limited to the record presented in the trial court and enlargement on appeal is generally not permitted, these claims must also fail. *Amorello v Monsanto Corp*, 186 Mich App 324, 330; 463 NW2d 487 (1990). Therefore, the trial court did not err in summarily dismissing plaintiff's defamation claim.

Affirmed.

/s/ Gary R. McDonald
/s/ Henry William Saad
/s/ Michael R. Smolenski